



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,332	04/08/2004	Alfred von Schuckmann	DT-6790	8525

30377 7590 03/16/2007
DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NY 10017-5621

EXAMINER

CARTAGENA, MELVIN A

ART UNIT	PAPER NUMBER
----------	--------------

3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/820,332	Applicant(s) SCHUCKMANN, ALFRED VON	
	Examiner Melvin A. Cartagena	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,8-13,15,16 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US

1,657,801 to Kreidel.

Kreidel shows a dispenser having housing parts “d” and “h”, a supply chamber “a” for storing fluid, a variable pump chamber “h¹” to deliver the fluid through an opening in the nozzle “i”, a cover “e” covering the pump and displacing relative to the pump chamber, the pump has an initial position with an initial volume, seen in Fig. 1, and a second position with a reduce volume, see in Fig. 2, a reset spring “l”, an upper housing part “c”.

The dispenser is operated by applying compression force to a rear side of the housing, see column 1, lines 67-111.

With respect to using the apparatus to fill a part with a hardenable compound, as recited in the preamble, has not been given patentable weight because it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,657,801 to Kreidel in view of US 4,826,048 to Skorka et al.

Kreidel shows all claimed features as discussed above except for a mixing path located in the dispensing opening. Skorka shows a dispenser as seen in Figs. 2 and 3, having a mixing path 18. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Kreidel to include a mixing path to dispense products that need to be mixed at precise ratio just prior to use as taught by Skorka.

5. Claims 9, 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,657,801 to Kreidel in view of US 4,962,868 to Borchard.

Kreidel shows all claimed features as discussed above except for a stopper for determining a volume of the dispensing compound. Borchard shows a dispensing apparatus with a stopper system, as seen in Figs. 3a and 3b, for determining the volume to be dispensed. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Kreidel to include a stopper to control the amounts of product that can be dispensed at a time from a container containing multiple doses of the product as taught by Borchard.

Art Unit: 3754

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,657,801 to Kreidel in view of US 6,341,717 to Auer.

Kreidel shows all claimed features as discussed above except for the pump formed by a roll bellows. Auer shows a pump formed by a bellows 12. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the pump in the device of Kreidel to be formed by a roll of bellows to reduce the cost of manufacturing the pump as taught by Auer.

7. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 1,657,801 to Kreidel as modified by US 4,962,868 to Borchard as applied to claim 10 above, and further in view of US 4,826,048 to Skorka et al.

The Kreidel-Borchard combination shows all claimed features as discussed above except for the device having a two-chamber element. Skorka shows a dispensing device, as seen in Figs. 1 and 3, having a two-chamber element formed by cartridges 2. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to make the device of the Kreidel-Borchard combination with two media components separate reservoirs with separate discharge means that can be jointly operated with a common handle to simultaneously dispense multiple components that need to be combined just prior to use as taught by Skorka.

Allowable Subject Matter

8. Claims 2-7 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3754

Conclusion

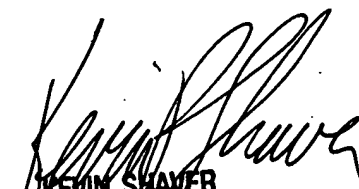
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Peterson shows a dose-dispensing pump.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MAC 3/8/07
MAC


KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700